



American Society for Clinical Laboratory Science
Voice, Value, Vision

Government Affairs Committee (GAC)

e-newsletter

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One of the strategic goals for our committee is to improve communication to the broader ASCLS membership and to provide a more consistent face to our members. The GAC e-newsletters are also available on the ***ASCLS Advocates for You*** section of the ASCLS website.

In this issue...

- Supreme Court upholds constitutionality of Affordable Care Act (Health Care Reform)

On Thursday, June 28, 2012, the Supreme Court made the long-awaited ruling on the constitutionality of healthcare reform, passed as the Accountable Care Act (ACA), which signed into law by President Obama in March 2010.

The court made a decision to integrate the three separate appellate court rulings that had been brought to them and rather than rule separately, made one overarching ruling. The court was closely divided (as are the voters in this country), as the 5-4 vote supporting the constitutionality of the legislation attests. The court, in a 193 page ruling, reviewed four questions:

- Was it within Congress's constitutional powers to impose the individual mandate to purchase health insurance?
- Must all or any additional parts of the law be struck down if the mandate is rejected?
- Was an expansion of Medicaid unduly coercive on the states? and
- Can all of those questions even be reviewed before the mandate takes effect (can you rule on a tax if it has not even been implemented yet)?

The most surprising ruling, and the one which provides much of the foundation for the ACA, was on the individual mandate. While the court rules that the mandate was unconstitutional under the Commerce clause of the Constitution, it ruled that it was

constitutional as a tax. Under this mandate, all Americans, under a specific income level, will be required to obtain medical insurance or be subject to a “fine” (tax). The court ruled that this was within Congress’s power.

The individual mandate penalty, starting in 2014, is \$285 per family or 1% of the family income, whichever is greater. In the 2016 this increases dramatically to \$2085 per family or 2.5% of the family income, whichever is greater. This along with reduced reimbursement for healthcare providers, provides much of the financing for healthcare reform.

Related to the individual mandate, are healthcare exchanges, which will make it possible for individuals to purchase medical insurance at a lower, more affordable rate.

The one part of the legislation, which was ruled unconstitutional, was the expansion of Medicaid. Starting in 2014 the ACA mandated expansion to anyone with income under 138% of the federal poverty. The court ruled that the federal government could not require expansion by the individual states because it would require them to opt out of the Medicaid program completely. However, the court ruled that states can opt in to the expansion.

Hallmarks of the legislation, which have been widely embraced, and which will continue, are the fact that insurance companies cannot deny coverage for people with pre-existing conditions and that children, up to the age of 26, can continue to be covered under their parent’s health plan. Prior to this legislation, it is estimated that 13 million people were denied coverage for pre-existing conditions and that 2.5 million young adults are impacted by the 26 year-old clause. Recently private insurers, such as Humana and United Healthcare, had made decisions to continue these parts of the legislation, even if the law was overturned.

Chief Justice Roberts, in writing the majority opinion, stated, “We asked only whether Congress has the power, under the constitution, to enact the positions challenged in the appellate courts. It is not the court’s job to judge whether it is sound policy.” In closing, the chief justice stated “The court would have no warrant to invalidate or tear down the Affordable Care Act in its entirety. When a court confronts an unconstitutional statute, its endeavor must be to conserve, not destroy, the legislation.”

The ASCLS Government Affairs Committee will be discussing this ruling and the ramifications for the laboratory profession during its committee meeting on Tuesday, July 17 at 4:30 pm at the Millennial Biltmore Los Angeles hotel. Please join us for important discussion on this topic as well as other ASCLS legislative and regulatory strategies, such as modernizing the clinical laboratory fee schedule and the latest CPT coding.

Rick Panning, GAC Chair